

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

BARRY BUCKHANON and
RODNEY FRALEY,

Plaintiffs

VS.

HUFF & ASSOCIATES
CONSTRUCTION COMPANY, INC.,

Defendant

CIVIL ACTION NO. 3:05-cv-0741-wkw

AFFIDAVIT

Before me, the undersigned authority, a Notary Public in and for the State of Alabama at Large, personally appeared Jerry Garrett, who being known to me and by me first duly sworn doth depose and say as follows:

My name is Jerry Garrett and I am over the age of 19 years and a resident citizen of Tallassee, Elmore County, Alabama. I have known Barry Buckhanon and Rodney Fraley for many years. Although I am Caucasian and Barry Buckhanon and Rodney Fraley are African-American I consider them to be my friends.

On or about July 30, 2004 I drove Buckhanon and Fraley to Auburn, Alabama to pick up their last paychecks from Huff & Associates Construction Company. When we arrived at the Kappa Alpha fraternity house at Auburn University we ran into Bobby Myers and Jimmy Langley who appeared to be leaving the job site in another vehicle. After both vehicles came to a stop Buckhanon and Fraley got out of our vehicle and approached Myers and asked him if they could get their last paychecks. At that point Myers began cursing and told Buckhanon and Fraley in substance that they were not

EXHIBIT

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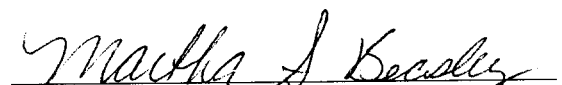
going to get their paychecks until they had repaid him the \$5.00 which they had previously borrowed. Apparently Buckhanon and Fraley had borrowed \$5.00 each to eat lunch a few days earlier. Buckhanon and Fraley told Myers that they would be glad to repay him the \$5.00 if he would follow them to the bank where they could cash their paychecks. Myers told them that he did not have time for that kind of "shit". During the course of the conversation Myers continued cursing in a loud and belligerent manner and called Buckhanon and Fraley "mother-fucking niggers", "black bastards", and "ignorant niggers". Myers used the word "nigger" repeatedly before finally giving Buckhanon and Fraley their paychecks. Myers conduct was so vicious and insulting it made me so angry I wanted to attack Myers myself.

Although I did not know Myers personally prior to July 30, 2004 I had met and observed him on other occasions. I have seen Myers at Hilyer's Auto Parts in Tallassee, Alabama when he would drop by for one reason or another while I was there. On each of those occasions Myers would frequently use the word "nigger" when referring to black folks. Myers appeared to have no regard for who might hear his racially derogatory comments.

Witness my hand and seal this 15th day of August, 2006.


JERRY GARRET, Affiant

SWORN TO AND SUBSCRIBED before me this 15th day of August, 2006.


NOTARY PUBLIC
My Commission Expires: 12/2/2007